

## REMARKS

Claims 1-69 and 111-121 remain in the application for prosecution. Claims 70-110 have been cancelled. Claims 1-6, 7,8, 12, 50-52, 54-57, 59, 111, 113-116 and 118 have been amended. Claims 9-11, 13-49, 60-69, 117 and 118 have been allowed. Claims 119-132 have been added for review.

In accordance with 37 CFR 1.41(4)(b), the term "applicant" includes the plural.

### Restriction Requirement

Applicant confirms the provisional election to invention I and cancels claims 70-110.

Applicant confirms that the inventorship for the elected claims has not changed.

Applicant reserves the right to file the cancelled claims in a divisional application.

### Claim Rejections - 35 U.S.C. §§ 102 and 103

Claims 1, 2, 4-7 and 111-116 were rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 5,088,971 to Herrington ("971 Herrington").

The pending Claims are, however, not anticipated by the prior art. Applicant notes that a "claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as contained in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). The elements must

be arranged as required by the claim. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990).

Hence, anticipation requires that each element be shown is a single reference. The claims as amended are not anticipated because, with respect to each claimed combination, each element of the corresponding claimed combination is not found in a single reference.

And the pending claimed combinations are not obvious in view of the prior art. "When patentability turns on the question of obviousness, the search for and analysis of the prior art includes evidence relevant to the finding of whether there is a teaching, motivation, or suggestion to select and combine the references relied on as evidence of obviousness." *In re Sang-Su Lee*, 277 F.3d 1338, 1343 (Fed. Cir. 2002). citing *McGinley v. Franklin Sports, Inc.*, 262 F.3d 1339, 1351-52 (Fed. Cir. 2001) ("the central question is whether there is reason to combine [the] references," a question of fact drawing on the *Graham* factors).

Thus, for an obviousness-based rejection, the Examiner must show that each element is found in the prior art and that there is a suggestion or motivation in the prior art to arrive at the claimed combination. Thus, the amended claimed combinations are patentable.

The Examiner has alleged that the prior art discloses smooth surfaces. In particular, the Examiner relies on Herrington's use of a hot knife and the Herrington drawings which are alleged to show "smooth" surfaces. This assertion that the prior art discloses smooth surfaces is incorrectly based on the necessarily general drawings of the prior art. But the prior art, which relies on contact-processes, results in irregularities and non-smooth surfaces. Examiner is referred to page 8, lines 17-33 of the subject application discussing the irregularities and surface roughness resulting from contact-cutting processes. The surfaces resulting from application of

applicant's invention are smoother and substantially free of irregularities associated with prior art methods. The ability to achieve smooth surfaces is not disclosed in the prior art.

Claims 1, 2, 4-7 and 111-116 are not anticipated by or rendered obvious in view of the prior art. And, thus, Claims 1, 2, 4-7 and 111-116 are patentable over the art of record.

The combination of Claim 1 includes smooth surfaces that have a surface roughness less than the surface roughness formed by a conventional hot knife or shear knife contact welding process. The claimed combination is not disclosed in the prior art, which utilizes contact processes that result in irregularities.

The combination of Claim 2 comprises melted together material of the first and second tracks, which laser-seals the tracks together. And as discussed in independent claim 1, the surfaces are smoother than surfaces associated with contact processes. So adding material which is melted by contact process, as disclosed in the prior art, does not result in the claimed combination.

The fastener of Claim 4 recites that the first profile at the first pair of opposing ends and the second profile at the second pair of opposing ends are laser-sealed. The prior art does not disclose such ends sealed by laser. As discussed above, the prior art contact sealing methods do not result in structure equivalent to structure obtained by non-contact sealing methods. Claim 4, defines structure according to what results from the laser-sealing.

Claim 5 depends from Claim 1 and further recites that the first track and the second track at the opposing ends are laser-sealed and rounded. The prior art does not disclose opposing ends being laser-sealed and rounded. As discussed above, the prior art structure inherently comprises deformities and other deficiencies that are not found in articles according to applicant's teaching.

For example, the prior art often results in strands and strings trailing from the ends. A subsequent burring process is required to obtain clean ends. Also, hot-knife processes result in deformed and warped ends. Claim 5, by contrast, recites ends that are rounded.

Claim 6 recites the first profile being non-contact welded to the second profile at each of the opposing ends such that each of the opposing ends is generally free of surface irregularities associated with a contact-welding process. The prior art, in particular Herrington relied upon by the Examiner to reject Claim 6, discloses a contact process that results in irregular ends that frequently include strings and warped shapes. The irregularities, strings, and warped end necessarily result from the contact pressure involved in the contact process and then contact adhesion involved in the contact process. Basically, the hot-knife crushes the material while melting the material and then sticks to the material and pulls (stretches) the material as the end is separated from the knife. Claim 6 recites an article that is free of such contact-associated irregularities.

Claims 111-113 and 114-116 appear to have been rejected because some limitations were not given weight. These claims have been amended to emphasize structure, rather than function. In particular, Claim 111 recites that the ends are provided with a surface roughness less than a surface roughness provided by a contact sealing process. Claim 114 comprises one or more opposing ends formed by cutting the first and second tracks with a non-contact cutting mechanism to produce one or more ends substantially free of irregularities formed by a contact cutting mechanism. Thus, the claimed articles are clearly distinguishable and not obvious in view of the prior art contact-formed articles.

Note that functional limitations of these claims used to achieve the originally claimed structure is not disclosed in the prior art. Accordingly, Applicant as added new method Claims 131 and 132, which generally correspond to originally filed Claims 111 and 114.

Claim 12 was rejected under 35 U.S.C. § 102(e) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 6,470,551 to Provan et al. ("Provan").

Claim 12 is also patentable over the art of record. As discussed above, the prior art does not disclose smooth ends, but rather irregularities and such associated with contact processes. Claim 12 further recites the ends being substantially smooth and rounded. The prior art does not disclose this limitation of the ends being both smooth and rounded, and (incorporated by reference from Claim 11) the ends formed primarily by surface tension.

#### **Claim Rejections - 35 U.S.C. § 103**

Claims 3 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over '971 Herrington in view of U.S. Patent No. 5,448,807 to Herrington, Jr. ("807 Herrington"). Herrington utilizes a hot knife to melt material of the track.

The Examiner asserts that the article claimed by Claims 3 and 8 are no different than the article obtained by the Herrington references. But the Herrington references fuse the clips with a contact process, namely a hot knife. Such process necessarily results in irregularities (see above discussion, including applicant's referred to discussion of the prior art). The articles of Claims 3 and 8 do not have such deformities. Claim 8 recites that the first and second profiles are non-contact welded by an additional material. And Claim 3 recites that the first and second tracks are laser-sealed by melting an additional material. The prior art articles are formed by contact methods that inherently have deformities, Claims 3 and 8 are formed by laser-sealing and non-

contact welding. As discussed in the application and above, the articles of Claims 3 and 8 are different than those of the prior art.

Claims 50-54, 56, 57 and 59 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,225,649 to Andreoli et al. ("Andreoli") in view of U.S. Patent No. 5,382,773 to Kurihara et al. ("Kurihara").

Claim 50 has been more particularly defined to recite directing a laser beam outwardly toward said inner surface of the rotatable drum. The prior art does not disclose this structural combination. Claims 51-54, 56, 57 and 59 depend from Claim 50 and describe novel combinations.

Claims 55 and 58 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Andreoli in view of Kurihara as applied to claims 50 and 57, and further in view of International Publication No. WO 98/16430 to Kendall ("Kendall").

Claims 55 and 58 depend directly or indirectly from Claim 50, which is patentable.

As set forth above, for an obviousness-based rejection, the Examiner must show that each element is found in the prior art and that there is a suggestion or motivation in the prior art to arrive at the claimed combination. The prior art cannot support a prima facie case of obviousness.

Thus, Claims 3 and 8; Claims 50-54, 56, 57 and 59; and Claims 55 and 58 are patentable over the art of record.

### New Claims

Applicant has included additional claims for review.

Seven new independent claims and seven dependent claims are submitted for review.

Payment for the additional claims in the amount of \$420.00 is enclosed.

### Conclusion

The Applicant believes the claims are allowable over the prior art of record and are in condition for allowance. Applicant respectfully requests reconsideration of the application.

Respectfully submitted,

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